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Statement of Activities Incompatible with the Duties as an Officer or Employee of the Fair Political Practices Commission

(a) Introduction.

This statement of “incompatible activities” for officers and employees of the Fair Political Practices Commission (“FPPC”) is required by Government Code section 19990. Although this statement does not attempt to specify every possible limitation on such incompatible activities, it is intended to provide guidance to officers and employees about what types of activities are incompatible with their duties to the FPPC and the State of California (“state”).

Nothing in this statement shall exempt any person from applicable provisions of any other laws. The standards of conduct set forth in this regulation are in addition to those prescribed in FPPC's Conflict-of-Interest Code.

Any questions about the interpretation of this statement should be directed to the employee's division chief, or in the case of division chiefs, to the executive director.

(b) Definitions.

- (1) Act. “Act” means the Political Reform Act.
- (2) Commission. “Commission” means the Fair Political Practices Commission.
- (3) Employee. “Employee” means all civil service employees of the commission.
- (4) Gift. “Gift” means any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount in the price of anything of value is made in the regular course of business to members of the public without regard to official status. The term “gift” does not include (A) informational material such as books, reports, pamphlets, calendars, or periodicals, (B) campaign contributions required to be reported under Chapter 4 of the Political Reform Act, (C) any devise or inheritance, or (D) personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).
- (5) Officer. “Officer” means the executive director and the chiefs of each division of the commission.
- (6) Outside Employer. “Outside Employer” means any person who provides compensation for outside employment.

(7) Outside Employment. “Outside employment” means any employment or business activity undertaken by an officer or employee on his or her own time for which he or she receives, or expects to receive, any form of income from a source other than the FPPC for services performed.

(8) Person. “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, or any other organization or group of persons acting in concert.

(9) Private Gain or Advantage. “Private gain or advantage” means the private gain or advantage for the officer, employee, or another person.

(10) Privileged Work Product. “Privileged Work Product” means any data, confidential information, or other FPPC work product which is gathered or prepared for internal agency use and not for release to the public.

(c) General prohibitions.

The following activities are deemed to be incompatible with the duties of FPPC officers or employees. FPPC officers and employees are prohibited from knowingly:

- (1) Using the prestige or influence of the state or FPPC for the purpose of acquiring private gain or advantage.
- (2) Using state time, funds, facilities, equipment, supplies, or privileged work product for the purpose of acquiring private gain or advantage.
- (3) Using, or having access to, confidential information available by virtue of state employment (including but not limited to confidential data filed by a member or beneficiary with the commission, and confidential contract, financial, investment or legal information) for the purpose of acquiring private gain or advantage.
- (4) Providing access to confidential information to persons to whom issuance of this information has not been authorized.
- (5) Receiving or accepting money or any other consideration (including but not limited to entertainment, lodging, travel expenses, services or other items) from anyone other than the state for the performance of his or her job duties as a state officer or employee, except as provided by this statement.
- (6) Performing an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the officer or employee.
- (7) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the FPPC or whose activities are regulated or controlled by the FPPC under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions

performed by the officer or employee.

(8) Not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee, subject to any other laws, rules, or regulations as pertains thereto.

(d) Specific prohibitions.

(1) Travel

(A) An officer or employee shall not accept a payment for FPPC travel expenses (including travel, lodging, and meals) from anyone other than the FPPC or the state when:

(i) such acceptance is not permissible under the gift provisions of the Act, or

(ii) the payment is made for FPPC travel expenses incurred for the purposes of attending employee training, rather than for speech-making purposes.

(B) Each officer or employee shall be responsible for complying with the Act's reporting requirements for gifts of travel received in connection with his or her FPPC-related duties.

(2) Communications Policy

(A) Contact with Government Officials.

An officer or employee shall not initiate contact with state administrators or legislative personnel for the purpose of presenting the FPPC's policy or position on legislation or amendments thereto or initiative or referendum petitions, unless such act is a part of the officer's or employee's official duties. This prohibition does not preclude officers or employees, as private citizens, from contacting legislative or administrative personnel.

(B) Contact with the Media.

When publishing any writing or making a media statement or public speech in which any connection with the FPPC is apparent, an officer or employee must provide an appropriate disclaimer explicitly indicating that the views expressed are those solely of the officer or employee and do not necessarily reflect the views of the FPPC, unless the writing, statement, or speech is part of the officer's or employee's FPPC duties and is consistent with FPPC press policy.

(3) Outside employment

(A) No officer or employee may engage in the following outside employment where such employment violates the impartial, effective

administration and implementation of the Political Reform Act as mandated by section 83111 of the Act:

(i) Outside employment with any person, organization or business entity of any type that contracts with the FPPC for any purpose, or which has financial dealings of any kind with the FPPC.

(ii) Outside employment with any person who is a state candidate, an elected state officer, a legislative official, a lobbyist, a lobbying firm, a lobbyist employer, a committee or any person listed in section 87200 of the Act.

(iii) Outside employment in a political campaign for any primary, general, special or recall election held in this state including the campaign of any candidate for President and any other candidate for federal office when the election is held in California.

(B) Each officer or employee shall be responsible for complying with the Act's reporting requirements for non-FPPC income received.

(4) Gifts

(A) An officer or employee shall not knowingly accept, solicit, or make any gift, loan, or other financial favor totaling more than \$10 in any calendar month from or to any state candidate, lobbyist, elected state officer, legislative official, agency official, or any person listed in section 87200 of the Act. A gift is not "accepted" by an officer or employee if the officer or employee returns the gift to the donor or the donor's agent or intermediary within 30 days from the time at which the officer or employee first knew that the gift was available for his or her benefit.

(B) Notwithstanding section A, employees may accept the following items from persons listed in section A:

(i) Occasional home meals, and lodging in a home on a social basis.

(ii) Transportation in a noncommercial vehicle.

(iii) Intra-state travel, necessary meals and accommodations, and other nominal benefits which are not reportable under 2 California Code of Regulations section 18950.3 and which are provided directly in connection with a panel, seminar or similar event at which an employee makes a speech or like appearance.

(iv) Gifts of approximately equal value exchanged between an employee and an individual other than a lobbyist on birthdays, holidays, and similar occasions.

(v) Gifts from an employee's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law,

nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, or from anyone other than a lobbyist living in the same household as the employee.

(vi) Occasional meals and incidental entertainment provided by a commissioner or another employee in connection with commission business.

In case of doubt as to the propriety of accepting a gift, the doubt should be resolved against acceptance.

(C) Each officer or employee shall be responsible for complying with the Act's reporting requirements for reportable gifts received.

(5) Political activities

The commission affirms the rights of its employees to engage in political activities, except as necessary to preserve the integrity and impartiality of the commission and its actions. Employees may engage in political activities as follows:

(A) Commission identification. Each employee will take reasonable precautions to assure that the commission is not identified with his or her political activities.

(B) Political activities in commission offices or while representing the commission. No employee shall engage in any political activities in commission offices, on commission time or while representing the commission. This section does not apply to union activities protected by state law.

(C) Compensated campaign activities. No officer or employee shall be employed for compensation in any political campaign in accordance with section (d)(3)(A)(iii) of this statement. Reimbursement for expenses incurred while performing volunteer political activities shall not be considered employment for compensation with a political campaign so long as like reimbursement is provided to others performing like activities.

(D) State lobbying. When voluntarily influencing state legislative or administrative action, the officer or employee may represent himself or herself or another person or group which does not employ a lobbyist or make contributions or expenditures for political purposes. An officer or employee may not represent any person such as a state candidate, an elected state officer, a legislative official, a lobbyist, a lobbying firm, a lobbyist employer, a committee or any person listed in section 87200 of the Act if such representation violates the impartial, effective administration and implementation of the Political Reform Act as mandated by section 83111 of the Act.

(E) Disqualification. Each employee shall promptly disqualify himself or herself from participating in any commission matter which would directly or significantly

affect a campaign for or against which the staff member has made a contribution or provided volunteer services. It is the affirmative duty of each employee, when he or she has knowledge thereof, to promptly notify his or her supervisor in writing when a commission matter may affect a campaign for or against which the staff member has made a contribution or provided volunteer services.

(F) Exceptions. Exceptions to the above restrictions on political activities will be granted when unusual circumstances so warrant. Exceptions may be granted by the executive director. The executive director will report to the commission at its next public meeting all exceptions granted.

(e) Penalties for violations of this statement.

If an FPPC officer or employee violates any provision of this statement, he or she will be liable for adverse action, including, but not limited to, dismissal or removal from office.

(f) Employee appeal rights.

Every FPPC officer or employee may use the FPPC's personnel complaint process to appeal (1) any determination made with respect to the provisions of this statement or (2) any disciplinary action taken pursuant to this statement.